

June 6, 2007

Marie Arnott
P o Box 701
Florence, Mt. 59833

RECEIVED

JUN 11 8 2007

Ravalli County Commissioners
[] [] [] []

Board of Commissioners
Ravalli County
215 South 4th
Suite A
Hamilton, Mt. 59840

Planning Dept.

*Ask Karen
Put on agenda?
7/16 @ 8:30*

Re: Illegal Subdivision

You have been repeatedly notified of an illegal subdivision of property located at 1007 Airport Road Stevensville, Mt. (please see enclosed map).

If you are having a problem remembering what I am talking about, let me refresh your memory. For those of you new to the board, this is probably the first time your hearing about this, considering that as far as we know nothing has been done about it and, obviously, you're just hoping we (those who live on airport road and are affected by this) go away. But we are not going to go away. You need to do something about this. We have already talked to a lawyer about it and are prepared to take action.

Here is the situation: In 1998 the property in question was turned down for a subdivision by owner at that time. In August 2004 Terry Nelson purchased the land. As a side note, he did not purchase the property until he knew he could do a family transfer and divide the property into several lots, which he did in February 2005. Just 2 months after doing family transfer he sold the first lot to a person, not a family member, under the guise that he was being a saint and doing them a huge favor because of their dire circumstances?. (See letter written by Terry Nelson dated July 25, 2005 in response to letter sent to him dated July 19, 2005 by Ravalli County Planning Dept. questioning him on the sale of this lot).

He has, since that time, not relented in his selling one lot after another until today he has only 1 or 2 lots left for sale. All of this with your knowledge

and I say this because you, The Board of Commissioners have been contacted repeatedly about this matter and yet you have refused to take action. You have received numerous letters, phone calls and I ,personally, even attended a public commissioners meeting and spoke to you about this. All for naught.

When I attended the public meeting , the county attorneys own previous assistant James McCubbin noted thru several e-mails that he considered this a blatant evasion of the use of the family transfer law. And yet, you sit there and do nothing.

We are tax paying, law-abiding citizens who pay your salaries and deserve to have the laws upheld. You have a responsibility to deal with complaints that come before you, We have done all the investigating work. The proof is right in front of you of what has gone on as respects this property and yet, because of what reasons has this not been dealt with????? It doesn't take a rocket scientist to see that Terry Nelson had no intention of having this be a true family transfer, but a way to get around having to fix the road.

Since when is it okay to prioritize those who break the law as to which ones are more important. So if my complaint is not high priority then I won't get justice and those twisting the laws get away with it.? Wow!! What a justice system we have in place. One we all should be proud of?????????!!!

All things are to be done within a reasonable amount of time, according to your book of subdivisions regs and yet here it has been 2 ½ years. Look in the book , section 76-3-102 MCA this code is intended to protect the rights of property owners, establish road standards. 1-1-10-Any person who violates any provision of the Montana Subdivision and Platting Act shall be guilty of a misdemeanor and punishable . Each sale of or transfer of each separate parcel shall be deemed a separate and distinct offense. Additional remedies available. In equity or under common law or statutory law. Definition of a Subdivision Evasion Criteria: means those criteria adopted by a local unit of government that it uses to determine when a rebuttable presumption existsa that the proposed use of the subdivision exemption, as allowed by state law, is being used to evade subdivision regulations.

Subdivision means a division of land or land so divided that creates one or more parcelsin order that the title to or possession of the parcels may be

sold, rented, leased, or otherwise conveyed

Terry Nelson bought the land, divided it up into parcels and has sold one right after the other in the 2 ½ years he has owned the property. And not one family member is living on any of the parcels. In fact, he is selling the parcels for less than appraisal price why is that? I'll just take a wild guess and say because he's trying to get rid of them before you do anything about it.

According to 3-1-8 Appeals:

A landowner with property contiguous to the proposed subdivision and private landowners affected by this property can complain and expect action or a decision within 30 days . Well , it's been, dare I say it again, 2 ½ years!!! (You also received a paper that had signatures of several of property owners that are affected by this division of land.)

Every process a person has to go thru to have a division of land approved or reviewed has a limit of time in which a decision has to be made. We want a decision or action taken within a reasonable amount of time. 2 ½ years is NOT a reasonable of amount of time.

Enclosed you will find copies of everything that I have obtained in regard to this property in question.

I know one thing for sure, if you are not going to make Terry Nelson abide by the laws and when there is a blatant misuse you ignore it and don't hold him accountable, then I know that when I divide my land your going to be hard pressed to make me abide by the rules. Either you make ALL obey the rules or NONE, you can't have it both ways. So do the research, see for yourself . I will state again, that the county attorneys own assistant, thru his research, said it seemed like an evasion. What more do you need?

Respectively \

Marie Arnott

777-2375
Marie Arnott {3920 Quartz Lane}
Stevensville, MD

This needs immediate
attention before another lot
is sold!

ATTACHMENT F



Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Telephone 406.375.6229 Fax 406.375.6336

July 9, 2004

Terry Nelson
914 Highway 93 North
Victor, MT 59875

Re: Subdivision Exemption Application SEA - 04 - 114
Description of Parcel: Parcel #446800

Dear Mr. Nelson:

We have reviewed your subdivision exemption application and have determined that you can use the requested exemption on the above-mentioned parcel for family transfers to each of your children, Seth, Mark, Jessica and Devin Nelson, your wife, Darlene Nelson, and your father, Gary Nelson, and a remainder parcel.

To complete the process of filing the survey in the Courthouse, you will need to do the following:

- work with a professional land surveyor to complete a survey, which all of the property owners will have to sign and have notarized. Be sure to quote the exemption language in its entirety on the final plat.
- work with the Ravalli County Environmental Health Department (375-6268) for instruction of the Department of Environmental Quality (DEQ) procedures for review of the lots. (This approval is referred to as a Certificate of Subdivision Plat Approval.) and/or provide a letter of approval from the Ravalli County Environmental Health Department for the exemption(s) from DEQ review quoted or used on this survey.
- research (Clerk and Recorder Office) to see if there are any covenants or zoning requirements that this survey will be required to meet.
- pay all property taxes that have been assessed and levied on the land. (Note: If you submit your survey for filing after the tax notices have been mailed out (which is generally by the end of each year) you will need to pay for the entire year - first and second half.)

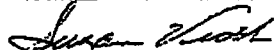
When you're ready to file the survey, please bring the following to the Clerk and Recorder's Office:

- the original of this letter
- \$5.00 and \$.50 per parcel
- the survey (one paper copy, two mylar copies, and a digital file of the survey)
- the original of the Certificate of Subdivision Plat Approval from the Montana Department of Environmental Quality and/or provide a letter of approval from the Ravalli County Environmental Health Department for the exemption(s) from DEQ review quoted or used on this survey.
- a deed or contract for deed which transfers the parcels to your children, wife and father, who will receive the parcels and \$6.00 per page for recording
- A consent to plat form signed by titleholder if applicant is not titleholder of property.

Once a parcel is transferred to a family member, that person cannot receive another parcel in Ravalli County through the family transfer exemption.

This approval must be utilized within one year of the above date, unless you specifically request in writing a one-year extension. In any future correspondence please refer to the file reference number listed above. If you have any questions, please feel free to contact me at 375-6229.

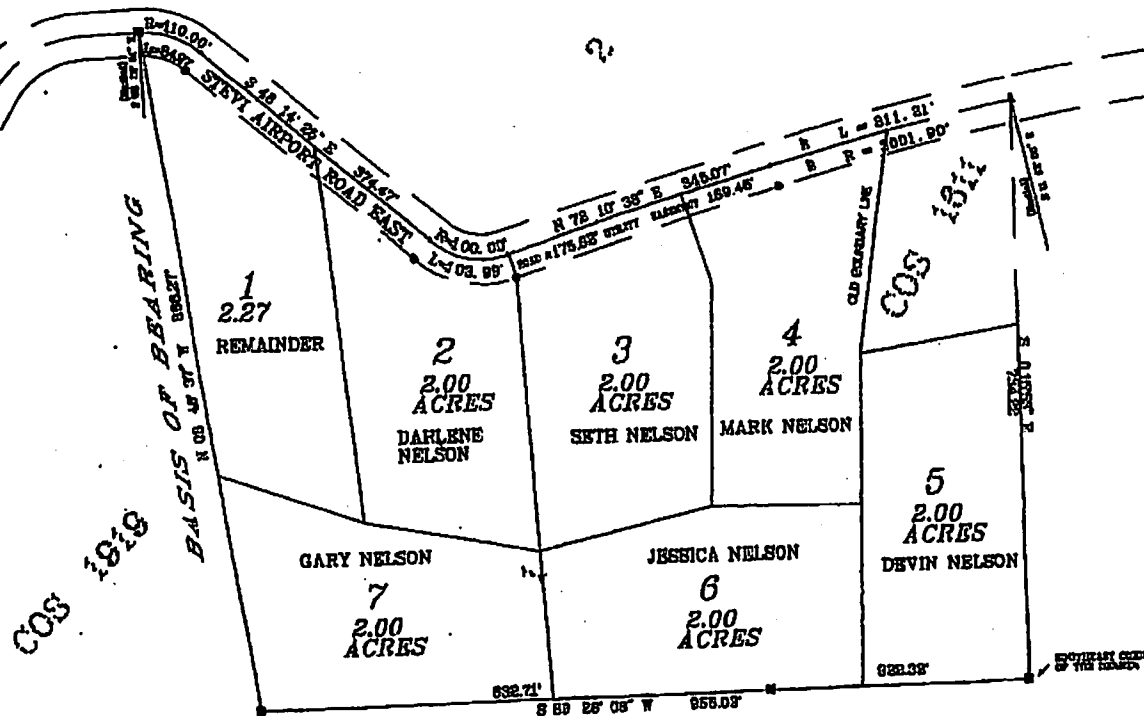
Sincerely,
RAVALLI COUNTY PLANNING DEPARTMENT


Susan Vieth, Planning Technician

cc: Correspondence File
Project file - Subdivision Exemption Application (SEA - 04 - 114)
Ravalli County Environmental Health Department
DG-04-07-756

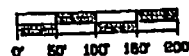
PURPOSE: FAMILY TRANSFER
OWNER: THERON NELSON

A PORTION OF THE NE¼,
SECTION 20, T9N, R19W, P.M.M.,
RAVALLI COUNTY, MONTANA



~~Applebury~~
Survey

DENIS APPLEBAUM
PROFESSIONAL LAND SURVEYOR
616 HWY 93 VICTOR, MT. 59675
(406) 831-0287



- SET 5' REBAR W/ 1" PLASTIC CAP
- FOUND 1" PLASTIC CAP
- FOUND 5/8" REBAR CAP MISSING

1/4 SEC T R CERTIFICATE OF
 20 5N 18W SURVEY NO. _____
 RAVALLE COUNTY, MONTANA
 STREET _____ OF _____

Subdivision Exemption Application
Ravalli County, Montana

RECEIVED

JUL 17 2004

Section 1. Landowner Information:

County Tax ID: 446800

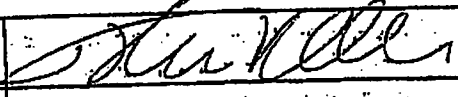
\$50.00
 Ravalli Co. Planning Office

1. Applicant Information 7/7/04

Name:	Terry Nelson	Surveyor:	Applebury Survey
Address:	914 Highway 93	Address:	914 Highway 93
City/State/Zip:	Victor, MT 59875	City/State/Zip:	Victor, MT 59875
Phone(day):	406-961-3267	Phone(day):	406-961-3267

Mailing: Original ☐ Copy ☐ Both ☐

2. Titleholder Information: (If a relocation of common boundary is requested, (all owners must SIGN).)

Full Name:	<u>Theron Nelson</u>	Signature:	
Full Name:		Signature:	
Full Name:		Signature:	
Full Name:		Signature:	

3. Legal Description: NE Section 20 Township: 9 North Range 19 West

4. Certificate of Survey Number 1917 Tract/Parcel Lot 1 CCS

5. Type of Exemption Requested: (check all that apply)

☐ Agricultural
 ☐ Mortgage Release
 ☐ Relocation of Common Boundary
☐ Family Transfer
 Please provide the required information for transfer/gift to family member.

Relationship:	Wife	Name of Family Member:	Darlene Nelson	Over 18? Y/N
Relationship:	Father	Name of Family Member:	Gary Nelson	Over 18? Y/N
Relationship:	Son	Name of Family Member:	Seth Nelson	Over 18? Y/N
Relationship:	Son	Name of Family Member:	Mark Nelson	Over 18? Y/N
Relationship:	Daughter	Name of Family Member:	Jessica Nelson	Over 18? Y/N
Relationship:	Son	Name of Family Member:	Devin Nelson	Over 18? Y/N

6. Prior use of Subdivision Exemption: (Leave table blank if there have been none. Include information about the remainder for each Certificate of Survey.) Attach additional pages if necessary.

COS Number	Tract Number	Location			Exemption Used (Occasional sale, agricultural exemption, relocation of common boundary, mortgage release, family transfer, remainder)	Disposition of Parcel (Sold, retain ownership, etc)
		Section	Township	Range		

Any Trailer Houses? ☒ N Not hooked up. Is to be moved off of property

Subdivision Exemption Application applied for:
(Boundary Relocation, Family Transfer, Mortgage, Agricultural, Burial, Aggregation of Parcels)

Applicant: Terry Nelson

Applicant's Representative: Applebury Survey

Addendum to Subdivision Exemption Application

Are there any financial, business or personal relationships between the owner(s) of the property(ies), the selling agent, the purchasing agent, the brokerage firm, the developer or builder, consultants, and/or purchasers of the property AND members of the Ravalli County Planning Staff or the Ravalli County Commissioners? If yes, please explain.

There are no conflicts which I am aware of.

Terry Nelson

Please return this form to:
Ravalli County Planning Office
215 S. 4th Street, Suite F
Hamilton, MT 59840

RAV-38877
P-446800, 994500 AND 994410

WARRANTY DEED - Short Form

THIS INDENTURE, made the 12th day of August, 2004, between C.S. ENTERPRISES, INC. and CECIL SCHOONOVER of P.O. Box 222, Hope, Kansas 67451, parties of the FIRST PART, and THERON NELSON of 914 Highway 93, Victor, MT 59875, party of the SECOND PART;

WITNESSETH, that the said parties of the FIRST PART, for and in consideration of the sum of Ten Dollars (\$10.00) lawful money of the United States of America, to them in hand paid by said party of the SECOND PART, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, convey, warrant and confirm unto the said party of the SECOND PART, and to his/her heirs and assigns forever, the hereinafter described real estate situated in the County of Ravalli, and State of Montana, to wit:

As set forth on Exhibit "A" attached hereto and by reference made a part hereof.

TOGETHER WITH all and singular the hereinbefore described premises together with all tenements, hereditaments, and appurtenances, thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well as in law as in equity, of the said parties of the FIRST PART, of, in, or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described premises unto the party of the SECOND PART, and to his/her heirs and assigns forever.

And the said parties of the FIRST PART, and their heirs do hereby covenant that they will forever WARRANT and DEFEND all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the SECOND PART, his/her heirs and assigns, against all acts and deeds of the said parties of the FIRST PART, and all and every person and persons whomsoever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said parties of the FIRST PART has hereunto set their hands and seals the day and year first hereinafter written.

Thomas D. Henderson
C.S. ENTERPRISES, INC. by
Thomas D. Henderson, Authorized Signator

Thomas D. Henderson
CECIL SCHOONOVER, by
Thomas D. Henderson, Attorney-in-fact

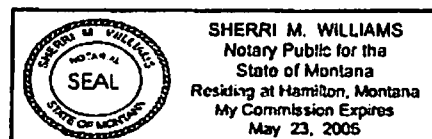
STATE OF Montana)
COUNTY OF Ravalli) ss:

On this 12th day of August, 2004, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Thomas D. Henderson, authorized signator of C.S. ENTERPRISES, INC. and Thomas D. Henderson, Attorney-in-fact for CECIL SCHOONOVER known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Sherrri M. Williams
NOTARY PUBLIC for the State of Montana
Print Name Sherrri M. Williams
Residing at Hamilton
My commission expires 5-23-2006

Return to:
THERON NELSON
914 Highway 93, Victor, MT 59875



Doc #
546386
17

A black and white illustration of a crucifix. The cross is made of wood with a textured surface. Jesus is on the cross, wearing a loincloth. Above the cross is a large, bold, black letter 'N'. The entire image is set against a white background.

Nedra P. Taylor

CLERK AND RECORDER BY: Tena L. Miller

FEE: \$6.00

WARRANTY DEED

Ret:

For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto DARLENE T. NELSON as custodian for DEVIN NELSON under the Montana Uniform Transfers to Minors Act of 1021 Jessica Court, Corvallis, Montana 59828, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20. T9N, R19W, P.M., Ravalli County, Montana and being more particularly described as Parcel 1, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

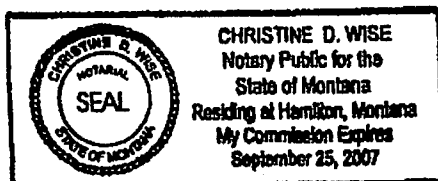
TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, GRANTOR has executed this Warranty Deed this 4th day of February, 2005.

X 
THERON NELSON

STATE OF MONTANA)
 : ss.
County of Ravalli)

This instrument was acknowledged before me on the 4th day of February, 2005, by THERON NELSON.



Christine D. Wise
Printed Name: CHRISTINE D. WISE
Notary Public for the State of Montana
Residing at HAMILTON, Montana
My Commission expires: SEPT. 25, 2007

Nedra P. Taylor

CLERK AND RECORDER BY: Tena L. Miller

FEE: \$6.00

WARRANTY DEED

Ret:

For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto GERHARTH. NELSON of 3653 Silverthorn Drive, Stevensville, Montana 59870, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20. T9N, R19W, P.M.,M., Ravalli County, Montana and being more particularly described as Parcel 2, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

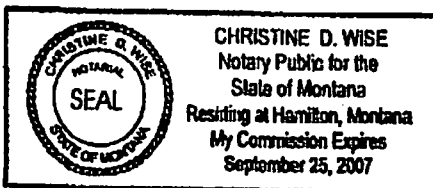
TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.


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THERON NELSON

STATE OF MONTANA)
 : ss.
County of Ravalli)

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Printed Name: CHRISTINE D. WISE
Notary Public for the State of Montana
Residing at HAMILTON, Montana
My Commission expires: SEPT 25, 2007

Nedra P. Taylor

CLERK AND RECORDER BY:

Tena L. Miller

FEE: \$6.00

WARRANTY DEED

Ret: For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto DARLENE T. NELSON of 1021 Jessica Court, Corvallis, Montana 59828, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20, T9N, R19W, P.M.M., Ravalli County, Montana and being more particularly described as Parcel 3, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, GRANTOR has executed this Warranty Deed this 4th day of February, 2005.

X

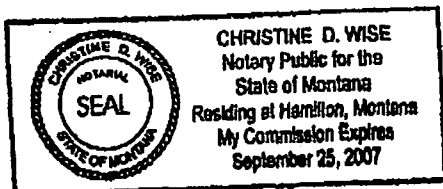
THERON NELSON

STATE OF MONTANA)

: ss.

County of Ravalli)

This instrument was acknowledged before me on the 4th day of February, 2005, by THERON NELSON.



Christine D. Wise
Printed Name: CHRISTINE D. WISE
Notary Public for the State of Montana
Residing at HAMILTON, Montana
My Commission expires: SEPT. 25, 2007

RECORDED: 02/08/2005

8:35 WARRANTY

CLERK AND RECORDER BY: Tena L. Miller

FEE: \$6.00

WARRANTY DEED*Ret:*

For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto DARLENE T. NELSON as custodian for JESSICA NELSON under the Montana Uniform Transfers to Minors Act of 1021 Jessica Court, Corvallis, Montana 59828, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20. T9N, R19W, P.M.,M., Ravalli County, Montana and being more particularly described as Parcel 4, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, GRANTOR has executed this Warranty Deed this 4th day of February, 2005.

X

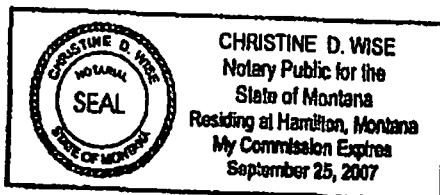

 THERON NELSON

STATE OF MONTANA)

: ss.

County of Ravalli)

This instrument was acknowledged before me on the 4th day of February, 2005, by THERON NELSON.



Christine D. Wise
 Printed Name: CHRISTINE D. WISE
 Notary Public for the State of Montana
 Residing at HAMILTON, Montana
 My Commission expires SEPT. 25, 2007

Nedra P. Taylor CLERK AND RECORDER BY: Tena L. Miller FEE: \$6.00

WARRANTY DEED

Ret:

For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto DARLENE T. NELSON as custodian for MARK NELSON under the Montana Uniform Transfers to Minors Act of 1021 Jessica Court, Corvallis, Montana 59828, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20. T9N, R19W, P.M.,M., Ravalli County, Montana and being more particularly described as Parcel 5, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

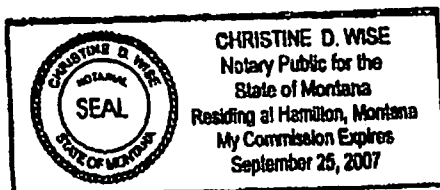
TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, GRANTOR has executed this Warranty Deed this 4th day of February, 2005.

X *[Signature]*
THERON NELSON

STATE OF MONTANA)
 : ss.
County of Ravalli)

This instrument was acknowledged before me on the 4th day of February, 2005, by THERON NELSON.



Christine D. Wise
Printed Name: CHRISTINE D. WISE
Notary Public for the State of Montana
Residing at HAMILTON, Montana
My Commission expires: SEPT. 25, 2007

WARRANTY DEED

Ret:

For Value Received, THERON NELSON of 1021 Jessica Court, Corvallis, Montana 59828. The GRANTOR, does hereby grant, bargain, sell, convey, warrant and confirm unto DARLENE T. NELSON as custodian for SETH NELSON under the Montana Uniform Transfers to Minors Act of 1021 Jessica Court, Corvallis, Montana 59828, the GRANTEE, the following described premises in Ravalli County, Montana, to wit:

A tract of land located in and being a portion of the NE1/4, Section 20. T9N, R19W, P.M.,M., Ravalli County, Montana and being more particularly described as Parcel 6, Certificate of Survey No. 548994-F.

Excepting and reserving any easement shown on the plat, also subject to all easements of record and as apparent upon the ground.

Excepting and reserving any and all water and water rights to GRANTOR. No water or water rights whatsoever are being transferred to GRANTEE.

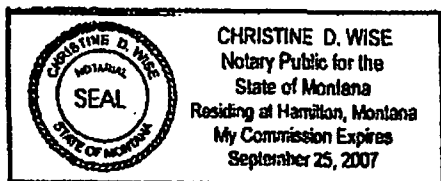
TO HAVE AND TO HOLD the said premises, with their appurtenances unto GRANTEE and to GRANTEE's heirs and assigns forever. And GRANTOR does hereby covenant to and with GRANTEE, the GRANTOR is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that GRANTOR will forever WARRANT and DEFEND the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, GRANTOR has executed this Warranty Deed this 4th day of February, 2005.

X *[Signature]*
THERON NELSON

STATE OF MONTANA)
 : ss.
County of Ravalli)

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Christine D. Wise
Printed Name: CHRISTINE D. WISE
Notary Public for the State of Montana
Residing at HAMILTON, Montana
My Commission expires: SEPT. 25, 2007

RAV-39516
(P-446800)

WARRANTY DEED (Joint Tenancy)

THIS INSTRUMENT, MADE THIS 17th day of March, 2005, between Darlene T. Nelson as Custodian for Seth Nelson of 1021 Jessica Court, Corvallis, MT 59828, the party of the FIRST PART, and Robert V. DelMyer and Heidi M. DelMyer of 2146 Red Crow Road, Victor, MT 59875, the parties of the SECOND PART, WITNESSETH: That the party of the FIRST PART, for and in consideration of the sum of Ten Dollars (\$10.00) to him/her in hand paid by the parties of the SECOND PART, the receipt hereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the parties of the SECOND PART, AS JOINT TENANTS AND TO THE SURVIVOR OF SAID NAMED JOINT TENANTS (and not as tenants in common) and to the heirs and assigns of such survivor forever, all that tract or parcel of land lying and being in the County of Ravalli, State of Montana, to wit:

As set forth on Exhibit "A" attached hereto and by reference made a part hereof.

TOGETHER, with all and singular the hereinafore described premises together with all tenements, hereditaments, and appurtenances, thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well as in law as in equity, of the party of the FIRST PART, of, in, or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described premises unto the parties of the SECOND PART, their assigns, and the survivor of said parties and assigns of the survivor, against all acts and deeds of the party of the FIRST PART, and all and every person and persons whomsoever lawfully claiming or to claim the same. And the Party of the First Part, and his/her heirs, does hereby covenant that he/she will forever warrant and defend all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said Parties of the Second Part and their assigns, and the survivor of said parties and the heirs and assigns of the survivor, against all acts and deeds of the party of the FIRST PART, and all and every person and persons whomsoever lawfully claiming or to claim the same. And the Party of the First Part, and all and every person and persons assigns of the survivor, against all acts and deeds of the Party of the First Part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

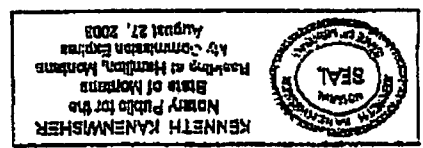
IN WITNESS WHEREOF, the party of the FIRST PART has hereunto set his/her hand and day and year first above written.

Darlene T. Nelson
Darlene T. Nelson as Custodian for Seth Nelson

STATE OF Montana
COUNTY OF Ravalli
) ss:
)

On this 17th day of March, 2005, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Darlene T. Nelson as Custodian for Seth Nelson known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



NOTARY PUBLIC for the State of Montana
Print Name _____
Residing at _____
My commission expires _____

Return to:
Robert V. DelMyer
2146 Red Crow Road, Victor, MT 59875

Exhibit A

A parcel of land located in the NE1/4, Section 20, Township 9 North, Range 19 West, P.M.M., Ravalli County, Montana, and being more particularly described as Parcel 6, Certificate of Survey No. 548994-F.

TOGETHER WITH all water, water rights, ditches, dams, flumes and easements appurtenant to said lands or usually had and enjoyed with the same.

SUBJECT TO any restrictions, reservations, exceptions or easement and rights of way of record or apparent on the premises.

COPY

10/07/04

Brian and Dawn Potton
3743 Sagehill Dr
Stevensville, MT 59870
(406) 777-5342

To: Ravalli County Planning Dept.
Attn: Patricia
215 S 4th St, Suite F
Hamilton, MT 59840

Dear Patricia,

This letter is in response to our 10/07/04 phone conversation regarding the "subdivision"/family split of the property belonging to Cecil Schoonover on Airport Rd, Stevensville, MT that adjoins our property on Sagehill Dr. Per our conversation, you explained that this was a "One Time Family Split" exemption rule for proposed split of this parcel into seven lots. You explained that this exemption applied if the family members were to build their own homes on the property lots in question, and that the properties could not be resold nor rented out.

On October 1st, 2004 I (Brian) had a conversation with an individual (I did not get name) who was operating a Bobcat on said property who explained that he was working under the direction of Terry Nelson and that he was preparing the lot to put his own mobile home on the property and renting the lot from new owner (whichever alleged "family member" that might be.) According to what you told me today, that is a direct violation of the subdivision review process. We respectfully request that somebody do an investigation into this matter, as quite frankly we wholeheartedly oppose another subdivision in our area. We (our fellow road association members) have previously successfully defeated other attempts in the past to subdivide this exact parcel of property due to various reasons already on record. These reasons were including but not limited to weak water/aquifer supplies, wildlife habitat, increased health hazards due to increased dust from the road and increased deterioration of our private road. Incidentally, previous board member Gary Venier pointed out that subdivision of this parcel would required that the one mile of private road to this property would have to be brought up to county standards, and due to it's parcel number (#17) splitting it into three or more parcels then brings that number past twenty, which would require paving of same roadway.

If indeed Mr. Schoonover has split this property onto seven family members, I present to you the following questions:

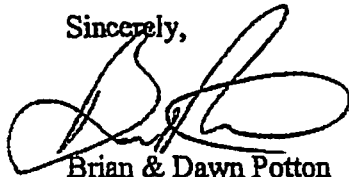
- 1) When was the last time you saw seven adult family members that lived in total bliss in the same county, let alone on the same dozen or so(?) acres? Possible, but not likely. Does this split also include a split to his spouse as one rumor has it? Are they getting divorced which requires that they both live in different houses (but still right next to each other)? This is just hearsay (the spouse being included as one of the seven parties), but might warrant looking into. Also, are each of the "transferred to" parties currently residents of Ravalli County or do they live out of

county or state? What guarantees do you have, that they are actually moving here? If they intend to actually build on this property and move here, what type of time restraints does Ravalli County impose on this? Are there any? There has to be a limit someplace!

- 2) If there are time restraints and occupancy requirements on this "exempt rule", and they actually violate this rule, what kind of penalties/fines are imposed? Do you level the entire subdivision? (That's a great idea!) Do you allow the homes that complied to remain or are they seized and condemned? Are they a joke or is it large enough to make normal folks think twice?
- 3) If the new owner elects to sell or rent the property, what type of penalties are imposed for that? Do you transfer the property to the party that tried to warn The County in the first place that this was quite clearly an attempt to circumvent the normal subdivision review process? (That would be cool, but we still like the "level the whole thing" idea.) Does anyone monitor this stuff? Does anyone investigate and clarify compliance via the "occupants" property tax bills, power bills, mailing addresses, phone bills, maybe knock on a door and just ask?
- 4) Our concern is that once this thing is in (if they are allowed to use the exemption rule), and the rules are violated, what will be done to reverse it once proven to be a farce? Is it (the sub-division) allowed to stay so nobody has to deal with "homeless" issues or are we required to seek legal council on this?
- 5) Is there written criteria available to the public that must be read and signed by all parties involved, explaining the rules and repercussions? If so, please immediately send us a copy of this. We will even reimburse you the copy and postage costs!
- 6) Finally, who reviews and grants these exemptions or is it just an automatic thing. We really would like to meet or speak with that person. We have a word for this process, and it smells just like "steer manure".

We look forward to your speedy response, and pledge to keep you posted on all future developments on this issue as they arise.

Sincerely,



Brian & Dawn Potton

PS: FYI, We currently do have road association formed at this time, but are waiting for 60%+ signatures from current property owners to file it with the county. (The Greater Airport Road East Association, aka: The Greater A.R.E.A.)

Cc: All members of the Greater AREA

ATTACHMENT B

RECEIVED

JUN 28 2005

Ravalli County Planning Dept.

1C-05-06-1239

6/27/05

From: Brian and Dawn Potton
3743 Sagehill Dr
Stevensville, MT 59870

To: Ravalli County Planning Department
Attn: Nan or Patricia
215 S 4th St
Hamilton, MT 59840

Dear Planning Department,

This letter is in follow up to the 10/07/04 letter I sent regarding what we deem to be an illegal sub-division that is being constructed on property that adjoins ours. The last conversation I had with you folks indicated that you needed the exact address that was being subdivided. They now have the little green sign that indicates the property in question is 1007 Airport Rd, Stevensville.

Things you should know:

- 1) They have already built one house on the property in question. Keep in mind that this started out as over a 15 acre parcel, that the "Split" that was originated back in 2000 to nine and six acre tracts were never completed and filed correctly (according to the sanitarian).
- 2) The developer now has a total of seven power boxes (pedestals) installed, so it is quite obvious as to how many homes are intended to be built. Yet, there has never been any "public" notice posted of intent to subdivide, nor is there any record of such intent filed in Ravalli County.
- 3) They have just completed punching in a circular type road accessing these proposed lots, as well as hauled in dozens of loads of gravel (it is actually a pretty nice road!) However, as part of the subdivision "requirements" of Ravalli County, they have not brought "Airport Rd East" up to county specifications! The last I had heard, this was a Requirement, not an Option. To top it all off, the heavy construction traffic as destroyed what work we (current homeowners) have done over the last ten years, reverting our road back to a goat trail.

Can someone please investigate this matter? We are just completely flabbergasted that this matter has been allowed to progress to this level without some form of intervention, or at least a good explanation from someone! We look forward to your response.

Sincerely,



Brian Potton

Cc: County Commissioner Greg Chilcott

6/27/05

JUL 07 2005

Ravalli County Planning Dept

TC-05-07-1302

From: Brian Pottou

3743 Sagehill Dr

Stevensville, MT 59870

406-777-5342 (hm)

406-777-3626 (wk)

bpottou@ravallimtsa.com

To: Ravalli County Commissioners

Attn: Greg Chilcott

205 Bedford St

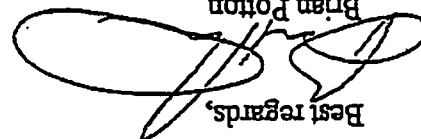
Hamilton, MT 59840

Greg,

I hate to bother you with this as I know you are extremely busy, but I cannot seem to get anybody to take an interest in this problem. These folks are clearly breaking every sub-division rule in effect in Ravalli County, yet nobody but me seems to care. This is almost getting to point of no return as these guys are very "ambitious". They have not improved Airport East to county specs, they have not posted intent to subdivide, they do not have septic permits, they have not notified adjoining land owners, they have not filed anything period! Can you do anything, or even possibly light a fire under someone? This is getting out of control! Thanks for your help.

Brian Pottou

Best regards,



ATTACHMENT C

4. Same as #3.

D. James McCubbin
Deputy Attorney
Ravalli County Attorney's Office
205 Bedford St., Suite C
Hamilton, MT 59840
Phone: (406) 375-6222
Fax: (406) 375-6328

Please note that my email address has changed to jmccubbin@ravalliacounty.mt.gov. I am continuing to receive email at my old address on a temporary basis, but please update your contact information at your earliest convenience.

-----Original Message-----

From: Nan Reyner
Sent: Friday, July 15, 2005 10:00 AM
To: James McCubbin
Cc: Patrick O'Herren
Subject: SEA's

James,

I have several potential subdivision evasions. Here are four of the cases that need our immediate attention. I'll give you a short overview of each SEA for your review.

1. Ruggirello, Elizabeth - Family Transfer to her parents, Marie & Anthony Malley

Tena/C&R brought this to your attention in April when Marie Malley picked-up an app. Evidently, you had her alert Karen to this potential evasion. Last July, Marie had deeded this same property to her daughter, Elizabeth. Elizabeth is saying she purchased the home on 2-1/2 acres from her mom last year and wants to deed 1 acre back to her mother. There's nothing more to go on than everyone's suspicion and word that a mortgage company is waiting on this for re-financing. Also, the father is a step-father, but that can be remedied just by having them remove his name from the app.

2. Clark, Tim - Family Transfer to his wife, Toni Clark

Susan denied this on June 6th because the subject property was titled to the wife explaining she cannot deed a parcel to herself. On June 13th, Landworks responded to the denial stating that Mr. Clark had informed them that a mistake had been made by the title company while filing the quiet title. Landworks states that the mistake has since been corrected and asked us to re-review the app.

Meanwhile, Dana/C&R brought up a copy of the Quit Claim Deed from Tina to Paul W. Clark (I'm assuming Tim) dtd July 11th. Dana attached a note to Patrick stating it was her distinct impression after talking to Tina Clark that she intends on doing a family transfer in order to sell the piece of property.

3. Nelson, Terry - Family Transfer to Darlene Nelson; Darlene for minors Devin, Jessica, Mark and Seth Nelson; and Gerhart Nelson

We have rec'd inquiries from both Tom Arnot and Mr. & Mrs. Brian Potton about illegal development on one of these parcels. I found that the subject properties were deeded to T. Nelson from Schoonover on 8/12/04. Then on 2/8/05, T. Nelson did a family transfer to all family members listed above. On March 18th, Seth's parcel was deeded to DeMyer who is doing the reported development at 1007 Airport Rd. in Stevi. Our files go back to a letter from Mr. Potton dtd 10/7/04 addressing his concerns. The most recent letter we rec'd was 6/27/05 searching for a response from us and/or BCC/Chilcott.

4. Ferreira, Fred c/o Mountain Life Realty; Cathy Erickson is his POA; Applebury listed as Surveyor - Family Transfer to children, Steven and Kristin w/a remainder.

In '98, there was a Boundary Line Relocation recorded reconfiguring these subject parcels - 2-40's and 2-

7/18/2005

20's. Then, this application for a family transfer converted those 4 parcels into 6-20 acres. Meanwhile, I received a phone call from Rachel Hunt/363-4343 (a title insurance company) claiming these lots are being transferred into a LLC in order to sell the lots.

James, needless to say, I have the detailed files on these if you need any further info. I would appreciate your input on these ASAP... if we can deny and/or rescind any of these apps. The first 2 applicants are awaiting/expecting approval and Arnot/Potton are anxiously awaiting our response.

Thank you for your time and attention on these-

Nan Reyner
Planning Department Secretary
215 South 4th Street
Hamilton, MT 59840
(406) 375-6229
nreyner@ravallicounty.mt.gov

7/18/2005

ATTACHMENT H

Nan Reyner

From: Patrick O'Herren
Sent: Monday, July 18, 2005 8:59 AM
To: Nan Reyner
Subject: RE: SEA's

*per James response
It appears 1/b on
evasion of subdivision?*

1 and 2: OK. In your denial letter, state that following research by the department and a recommendation for denial from the county attorney's office...etc.

3. I'd be surprised if anyone has officially responded. Send a letter to Terry advising him that we have received more than one complaint and that we are investigating the matter further, and ask him for any information he might like to provide for that investigation. CC the letter to the complainants.

4. OK.

*No - some one needs
to do a letter to Terry
respond*

Thanks - good job!

From: Nan Reyner
Sent: Friday, July 15, 2005 3:10 PM
To: Patrick O'Herren
Subject: RE: SEA's

*2 conclusions I appear 4/b invasive
researched, submit info that invariants
as to review
DCC con*

Patrick,

See below...

So, are you ok w/me denying the first two and perhaps helping me when the screaming starts? (I think #1 could be a doozy.)

#3 - Terry Nelson w/complains from Arnot & Potton. Do you know if anyone's responded to Potton's letters and in-office inquiries yet? Where do we go w/this one??

#4 - FYI, I will watch for Ferreira & Mountain Life Realty, as well as Cathy Erickson. She has her fingers in several things in this valley and sweet talks her way thru quite a few dishonest processes.

Nan Reyner
Planning Department Secretary
215 South 4th Street
Hamilton, MT 59840
(406) 375-6229
nreyner@ravallicounty.mt.gov

From: James McCubbin
Sent: Friday, July 15, 2005 1:00 PM
To: Nan Reyner
Cc: Patrick O'Herren
Subject: RE: SEA's

*open city appears
1/b evasion*

Here are my opinions:

1. Evasion, as evidenced by prior transfer between family members.
2. Evasion, per intent to sell, as witnessed by County employee.
3. This sounds like an evasion, although it sounds like it was already completed. If so, a request can be made to the County Commissioners to pursue civil litigation for enforcement, by either the Planning Department or concerned citizens. I recommend disallowing the use of any further exemptions by this family.

We want civil litigation immediately!

7/18/2005

ATTACHMENT G

County MONTANA

Ravalli County Planning Department
225 South 4th Street, Suite F
Hamilton, MT 59840
Telephone 406.375.6229 Fax 406.375.6336

06-05-07-715

July 19, 2005

Terry Nelson
c/o Applebury Survey
914 Highway 93 North
Victor, MT 59875

Re: Subdivision Exemption Application (SEA - 04 - 114)
Description of Parcels: Parcel #446800

Dear Mr. Nelson:

Our office has received complaints about development on a parcel you previously owned at 1007 Airport Road in Stevensville. We have researched the subject property and found that it is one of the parcels that you transferred to your son, Seth, on February 8, 2005 under the Subdivision Exemption Application - Family Transfer referenced above. Our research also indicates that the parcel was then deeded to Robert V. and Helde M. De Myer on March 18th, 2005. Since the property was transferred, it appears that there may be an evasion of the Ravalli County Subdivision Regulations. Do you have any additional information you would like to submit to the Planning Department regarding this matter? If so, please contact me at your earliest opportunity.

Sincerely,

Nan Reyner

cc: Project File - Subdivision Exemption Application (SEA - 04-114)

Ravalli County Attorney, James McCubbin
Ravalli County Board of Commissioners
Ravalli County Clerk and Recorder
Ravalli County Environmental Health Department

Bcc: Tom Arnold, P.O. Box 701, Florence, MT 59833
Brian and Dawn Pottm, 3743 Sagehill Drive, Stevensville, MT 59870



Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Telephone 406.375.6229 Fax 406.375.6336

06-05-07-715

July 19, 2005

Terry Nelson
c/o Applebury Survey
914 Highway 93 North
Victor, MT 59875

Re: Subdivision Exemption Application (SEA - 04 - 114)
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Sincerely,

Nan Reyner

cc: Project File - Subdivision Exemption Application (SEA - 04-114)
Ravalli County Attorney, James McCubbin
Ravalli County Board of Commissioners
Ravalli County Clerk and Recorder
Ravalli County Environmental Health Department

ATTACHMENT D

JUL 25 2005

RE: OG-05-07-715

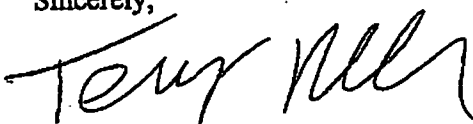
Ravalli County Planning Dept.

IC-05-07-13 92

Dear Mrs. Reyner,

This letter is to answer your letter of July 19th regarding a family transfer I did earlier this year. I want it to be known that I in no way intended to violate any laws or evade the act of subdivision with this split. Last year we sold our residence at 500 Camp Three Lane and moved into a bunkhouse on my parents place. The property on airport road became available to me in a package deal with two lots in Victor, one with an old singlewide trailer on it. We purchased the land with the intent of building a residence on the Airport Road property. I began the family transfer process because I wished to use that exemption before such time as the law might change and we could no longer do it. Shortly after beginning the process of the Family Transfer, I had some land offered to me near Corvallis which was more ideal for a new residence for us since it was much closer to work. It certainly was going to stretch the finances to do, but I figured that if I sold one of the two lots in Victor, it would work. I purchased the land in Corvallis and now live there. I immediately ran an ad in the paper for selling one of the lots in Victor. While I had a few interested buyers, it did not sell immediately. I then had a friend who got me in contact with a lady going through a divorce which needed a place to stay and eventually buy. I indicated to this lady that I did not wish to rent. She entered into a 1 year buy-sell contract with me for the trailer on the lot in Victor with my understanding that as soon as her divorce was final, she would have enough money to purchase the trailer and lot. Her divorce was finalized and she did not get as much as she anticipated, so she has not purchased the lot, however, my trailer and lot still have that buy-sell on it so I was not able to procure the funds I needed from that lot yet. I then had some dear friends, the DeMyers, looking for a lot to build on. I offered them my other Victor Lot but it was not in a neighborhood that was conducive to the type of house they were looking at building. Being friends, they also knew of the family transfer I was doing and had accompanied me to the property once when I was going up to look at it. They indicated that they would love to build up there, but I told them that my intent was not to sell those lots. I then had another friend and fellow employee that owned a singlewide on a rented lot in a trailer park. He wished to sell his trailer but was unable to, so I offered to let him put his trailer on my vacant Victor lot and sell the Lot and Trailer. I entered into another buy-sell on my second Victor lot and it is currently for sale. Following the filing of the final plat in February, I still had not received any funds for the lots in Victor and was in need of money for my new residence. The DeMyers again approached me about possible lots for sale, and since my intent had not been to sell, but due to new a new situation and opportunity, I allowed Seth to sell his lot to the DeMyers (at a greatly reduced price to help them out). I want it to me known that I did not intend to violate any laws and from my understanding of the law and its use in Ravalli County, I do not believe I have. If you have any further questions or concerns, please feel free to contact me. Also, please keep me informed as to what correspondence goes on in this matter.

Sincerely,



Terry Nelson

Front Desk

From: George Corn
Sent: Wednesday, July 26, 2006 11:51 AM
To: Karen Hughes
Cc: Betty Lund; Greg Chilcott; Alan Thompson; James McCubbin
Subject: RE: Potential family transfer violation

Karen,

Thanks for doing the history and checking with the C's. With what we have going on, I don't imagine James can get to this for at least a couple of weeks.

Can you meet Friday am with Rick Liable, John Horwich and myself re the impact fee bill? Also on Friday am can we meet with Dave Markette re the Shook matter as well?

Thanks,
 George

From: Karen Hughes
Sent: Wednesday, July 26, 2006 8:59 AM
To: James McCubbin; George Corn
Cc: Greg Chilcott; Betty Lund; Alan Thompson; Glenda Wiles; Clerk & Recorder - Nedra Taylor; Tristan Riddell
Subject: Potential family transfer violation

George and James:

The County has been contacted over the past couple of years about a potential subdivision evasion by Terry Nelson through use of the family transfer exemption. This past week Commissioner Chilcott was contacted by Tom Arnott regarding this situation. I preliminarily consulted with George about this matter because of his October 2005 memo to Patrick and he noted that because of the time lapse, there may be little that can be done. He suggested I check in with at least Greg to see what the Commissioners might want to do about this matter. The Commissioners have asked that I arrange a meeting between the Commissioners, the County Attorney's Office (and the Planning Department) on this matter so they can seek legal advice as to their options, which they understand, may be limited because of the time that has elapsed. Below is a brief history of the subject property and attached are relevant documents. (There are a number of blank pages in the family transfer documents thanks to our scanning limitations.)

1976 subdivision of the property (three lots) appears to have been approved but never filed, file appears to be incomplete

9/98 four-lot subdivision denied, property owned by O'Keefe, consultant was Dan Brown

2/3/99 - Property transferred to Schoonover

8/12/04 - Property transferred to Nelson

2/9/04 - Family transfer application approved

10/7/04 - First complaint letter from Potton filed with Planning Department (that I could find)

2/8/05 - Family transfer survey filed

3/17/05 - Parcel from family transfer sold to DeMyer

6/27/05 - Complaint letters sent by Potton to Planning Department and Commissioners

7/15-18/05 - Emails between Planning Staff and McCubbin regarding enforcement options

7/19/05 - Planning Dept letter to Nelson requesting explanation about sale of family transfer parcel

7/25/05 - Nelson letter explaining family transfer and subsequent property sale

10/6/2006

9/20/05 - Complaint letter from Potton to Corn
10/6/05 - Corn letter to O'Herren requesting history

Karen

*Karen Hughes, AICP
Ravalli County Planning Department
215 S. 4th Street Ste F
Hamilton, MT 59840
Phone (406) 375-6530
Fax (406) 375-6531
khughes@ravallicounty.mt.gov*

10/6/2006



RAVALLI COUNTY ATTORNEY

George H. Corn, County Attorney
T. Geoffrey Mahar, Chief Deputy
John Bell, Deputy
Karen Mahar, Deputy
D. James McCubbin, Deputy
William E. Fulbright, Deputy

Ravalli County Courthouse
205 Bedford Streets, Suite C
Hamilton, MT 59840
Phone (406) 375-6222
Fax (406) 375-6328

MEMO

TO: Nedra Taylor, Clerk & Recorder
CC: Ravalli County Commissioners
Patrick O'Herren, Dir. Of Planning

FROM: George H. Corn

DATE: September 13, 2005

RE: Family Transfer Evasion

Nedra,

You have recently asked for some clarification regarding the use of family transfers in regard to possible evasion of subdivision review. Article 3 of the Ravalli County Subdivision Regulations (RCSR), which has been in effect for years, was adopted to regulate transfers exempt from subdivision review, and to determine when such an exemption was improper, i.e. an evasion of subdivision review.

The RCSR allow a consideration of all relevant facts in the determination of whether a claimed family transfer exemption is an evasion. The specific language of §4-3-4 RCSR is broad, calling for the consideration of "all surrounding circumstances including:

- (1) the prior history of the particular parcel in question;
- (2) the proposed configuration of the parcels, and roads, if any;
- (3) likelihood of future exemptions on the parent tract and the created parcels;
- (4) ownership of the created parcels; and
- (5) Any pattern of exemptions that will result in the equivalent of a subdivision without subdivision review."

The Attorney General has stated whether particular exemptions are claimed for purposes of evasion are a question of fact addressed to the discretion of the local government." 40 AG Op. 16. Hence, the existence of those portions of the RCSR that I have mentioned above which provide for a review of claimed exemptions.

In reviewing such claimed exemptions, you should also note that the Attorney General has opined that since subdivision laws are designed to promote public health and welfare, they are to be liberally construed to affect the object of the law and exemptions must be narrowly applied. Id. Further, the county government may require the person claiming the exemption to make an evidentiary showing that it's justified, and the county should evaluate all relevant circumstances in assessing a claimant's intent. Id.

This may include 1) the nature of the claimant's business, i.e. is he in the business of buying and selling land? 2) the prior history of the land in question, i.e. has there been a prior exempt transaction involving the tract; 3) whether a claimant has engaged in prior exempt transactions involving land for the proposed configuration of the land after the allegedly exempt transaction; and 4) whether the claimed exemptions in effect result in creating a subdivision which is not reviewed. Id.

As you can see from the Attorney General's Opinion, which has the force of law, local governments are to closely scrutinize family exemptions and clearly have the authority to deny them. I point out again that the RCSR are broad enough to include all the factors set forth above as well as others that may be relevant such as the age, and ownership qualifications of the family member to whom the land is being transferred and whether intent to sell is already in existence. The intent to sell, in particular, is a red flag indicating evasion and justifies a denial.

On that point, you have asked if there is a specific time period that may be considered. In view of the broadness of the above factors, it follows that depending upon other circumstances; a transfer of land created by exemption within a period of four to five years is presumptively invalid.

You should also note that when a County Clerk and Recorder has knowledge that a document substituted for recording cannot be legally recorded, she then has an obligation to refuse to record it. Rocky Mountain Timberlands v. Lund, 265 Mont. 463, 877P.2d 1018 (1994)

ATTACHMENT E

RECEIVED

SEP 30 2005

Ravalli County Planning Dept

1605041807

10-5-05
12:19-6C
10/5/05

Brian and Dawn Potton
3743 Sagehill Dr
Stevensville, MT 59870
(406) 777-5342

To: George H. Corn, County Attorney
Ravalli County Courthouse
205 Bedford St, Ste C
Hamilton, MT 59840

CC: Ravalli County Commissioners
Patrick O'Herron, Director of Planning Ravalli County

RE: Theron Nelson Subdivision, 1007 Airport Rd, Stevensville, MT

Dear Mr. Corn,

We are in receipt of the attached copy of your "findings" surrounding the circumstances of the "illegal" subdivision of Mr. Theron Nelson on Stevensville Airport Rd. I am sure that you have been given copies of our previous complaints and contentions that this was/is an obvious blatant attempt to circumvent and evade the subdivision review processes of Ravalli County. If you have not, I will be happy to forward additional copies to you.

In short, Mr. Nelson, who happens to be a surveyor for Appleberry Survey, has subdivided the subject property into 7 lots. Two have already been sold, with one already having a house on it. He did not advertise this property as a "proposed subdivision", he has not obtained septic permits as required, or performed perk tests, nor has he brought Airport Road East up to county specifications, nor has he performed the myriad of other requirements normally associated with the subdivision review process.

We (adjoining land owners) had previously shut down two previous attempts at subdividing this property. Obviously, as Mr. Nelson has been involved in multiple other subdivisions, directly and indirectly, he is quite versed on how to "beat the system". To this we say BS!!! We all followed the rules when building our homes, and so should he. Attached for your viewing is a copy of the listings for these properties in the MLS Guide. Even the real estate agent (Kim Taylor, family member) should be brought into the crosshairs as she has even listed the "seller" of the five lots still for sale as ONE PERSON! This sounds like a Bitterroot Version of a family Mafia! Does this family have some form of "connection" at the court house that they can pull these stunts unchecked? Who do they have in their pocket? We have been hollering about this since the day the first survey stake was stuck in the ground!

Do we not have any property rights? Who will replace my well when it goes dry (I have two 400 footers that make about 3 gallons each). Who is going to pay for the added wear on our road? Do we not have any say on what happens in our neighborhood? Do I have to buy 200 hogs and pen them up on our adjoining fence line (upwind) just so nobody buys these lots? Someone please tell me why our inquiries keep falling on deaf ears! This man in clearly breaking the law and nobody but us seems to care.



PLANNING DEPARTMENT
215 SOUTH 4TH STREET; SUITE F
HAMILTON, MT 59840
PHONE 406.375.6530
FAX 406.375.6531
KHUGHES@RAVALLICOUNTY.MT.GOV

OG-06-09-1062

September 25, 2006

Tom Arnott
PO Box 701
Florence, MT 59870

Dear Mr. Arnott:

Your requests to the County for investigation of a potential subdivision evasion through use of a family transfer by Terry Nelson came to my attention once again. I have again referred this matter to the Board of County Commissioners and the County Attorney's Office.

Sincerely,


Karen Hughes
Planning Director

Ravalli County Attorney's Office
Ravalli County Board of County Commissioners

I and husband live just 1/2 mile past
this illegal division of land and am
affected by this division, we use same
antful dirt road. which is in great need
of bringing up to road standards if there
are going to be 4 new homes, 14 cars
at least 2 trips up & down road daily.